

THE UNIVERSITY AND THE STATE

A Lecture By

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On July 3, 1980, James A. Dinnan, professor of education at the University of Georgia, surrendered in his academic robes to federal marshals at the Bibb County Jail in Macon, Georgia, to begin a prison sentence for contempt of court. Judge Wilbur D. Owens had cited him for contempt for refusing to tell how he voted in the decision of a faculty committee that had declined to recommend tenure to a younger colleague. To Dinnan's mind the most fundamental process of academic self-governance was at issue: the decision as to who will teach, and most especially the choice of persons to be given lifetime teaching appointments. Judge Owens did not see it that way. In remarks from the bench he compared the closed proceeding of the tenure committee to the "blackball" system of the campus fraternities, which he had known as an undergraduate at the university.

A generation ago, the jailing of a professor asserting the integrity of traditional academic procedures would have aroused great alarm and protest. Professor Dinnan, however, was sentenced in silence. His colleagues have helped some, and there has been some remonstrance. But, as in Conan Doyle's Silver Blaze, the curious thing is that the dog did not bark.

Not, of course, ultimately curious. As Sherlock Holmes deduced and as we may do, the participants in the encounter were familiar with one another. At the King's Pyland stables in Devonshire, the dog knew the trainer. In Athens, Georgia,

the university faculty and administration were on equally familiar terms with the federal regulations that gave rise to the case of Professor Dinnan. In this particular instance those relating to sex discrimination under Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972.

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The federal writ routinely extends to the internal processes of the campuses. Under provisions of Executive Order 11246, issued in September 1965, the Secretary of Labor -- in discharging his duty to assure that organizations (including universities) receiving federal contracts not discriminate in hiring -- routinely requires compliance reports from contractors, and is authorized to make further investigations, including examination of "books, records, and accounts" to ascertain compliance.¹/ Such compliance reviews are required for any organization awarded a federal contract of at least \$1 million.

In a long-standing dispute between the University of California at Berkeley and the Department of Labor that concerns the right of such federal officials to copy and remove from campus confidential internal university records pertaining to faculty hiring and tenure decisions, Secretary Ray Marshall ordered on September 4, 1980, that the university is:

...hereby preliminarily and permanently prohibited from refusing to allow complainant to remove copies of said books, records, accounts, and other materials, from the University of California, Berkeley, campus, or from any other place at which they are maintained.

...[And that the university's] present Government contracts and subcontracts be canceled, terminated or suspended and that respondent be declared ineligible from further contracts and subcontracts, and from extensions or modifications of any existing contracts and subcontracts, until such time that it can satisfy the Director of OFCCP [Office of Federal Contract Compliance Programs] that it is in compliance with Executive Order 11246 and the Secretary's regulations issued pursuant thereto, which I have found to have been violated in this case.2/

In the end the University of California settled for such terms as it could get: it had no choice, certainly.

Only a few weeks earlier, over "bitter academic opposition," as reported by Science, the journal of the American Association for the Advancement of Science, the Office of Management and Budget imposed complex new accounting rules for federally sponsored research carried out on university campuses. The most onerous of these regulations established procedures by which universities must keep track of the time and effort of their professors so as to ensure that the federal government pays only for those activities that are integral to federally sponsored research projects. Circular A-21 (Cost Principles for Educational Institutions) states that:

Each report will account for 100 percent of the activity for which the employee is compensated and which is required in fulfillment of the employee's obligations to the institution.3/

Stanford University estimates that this will increase the number of reports that it must send to Washington from 3,000 to 80,000 a year. Science reports that:

After OMB rejected the final bid for renegotiation this summer, university strategists speculated that a spontaneous reaction by faculty against the reporting requirements might carry weight with OMB. But despite formal protests against the revised A-21 by the National Academy of Sciences and other organizations and scattered declarations from university departments of intentions not to sign the forms, no faculty rebellion materialized.⁴⁷

This time the dog eventually barked. A. Bartlett Giamatti, president of Yale University, spoke to the Association of Yale Alumni, deploring the "mounting wave of regulation" and "requirements for massive amounts of paperwork" associated with government grants. There is, he continued, "a powerful resentment on all sides, and distrust. A radical skepticism bordering on open contempt for our centers of learning surfaces again."^{5/} But the regulations had gone into effect, and one must ask the President of Yale: Whence cometh this radical skepticism bordering on contempt?

A vast transformation took place in the position of universities in the United States in the fifteen-year period between 1957 and 1972. Before then, the federal government had but little role in their support, and none whatever in their governance. Since then, all is changed, especially at the great research institutions. Between a quarter and a half of the budgets of such universities as Columbia, Stanford, and Harvard now come from federal funds; at least half

their undergraduates and graduates receive some federal assistance. This extension of aid has been accompanied by ever more detailed application of federal rules and regulations from various executive departments and agencies. Simultaneously, federal courts are increasingly involved with the internal processes of universities, in a pattern now familiar in elementary and secondary school systems. A judge forced to determine whether there has been discrimination in effect decides who shall have tenure.

All this has come as something of a shock. In the main, the university community was most supportive of the government activism that is now affecting it. In a greater or lesser degree the universities politicized themselves in the 1960s, demanding a wide range of government intervention in the society at large, which is only now reaching them. Not all this intervention is to be lamented. To the contrary. I was an Assistant Secretary of Labor in the administration of Lyndon B. Johnson and helped prepare Executive Order 11246 on Equal Employment Opportunity. This continues to be the basis of the affirmative action programs of the federal government. It was directed against a specific evil and has accomplished much good. But there was not a soul in the executive branch fifteen years ago who would have dreamed the day would come when the federal courts would require a census in which all employees and judicial officers be classified by "race/national origin groups." This includes the "distinct subgroups", "Arabic" and "Hebrew." This was just the sort of

thing we assumed we were working against.* Similarly, a good deal of the "confidentiality" that surrounds university decisions on matters such as tenure is a Victorian legacy that invites abuse and needs opening up. (Indeed, in the Middle Ages such decisions were made in public and with public participation, it being assumed that the community at large had a right to pass on decisions as to who would be teaching and what.) But this is only one aspect of a more general regulatory regime that is much the same with respect to any activity heavily dependent on federal money. What is unusual is the pained surprise to which it now gives rise. A notable example was the article published in The Public Interest in 1980 by Derek Bok, president of Harvard University:

...it is not my purpose merely to complain about the delays and inconveniences of public regulation but to explore the more serious problems that arise when the government seeks to influence basic academic functions: what Justice Frankfurter once described as "the 'four essential freedoms' of a university -- to determine for itself on academic ground who may teach, what may be taught, how it should be taught, and who may be admitted to study."

Universities have worked for generations to establish their autonomy over academic affairs, and Frankfurter plainly spoke for all of higher education when he declared: "For society's good, political power must abstain from intrusion(sic) into this activity of freedom, except for reasons that are exigent and obviously compelling." Despite these works, each of the university's "four essential freedoms" has become the subject of increasing federal scrutiny and regulation....

* This order was issued by the Administrative Office of the United States Courts on August 22, 1980. On September 26 a further notice stated:

Additionally, it has been determined that the breakdown of the category "white" to reflect the semitic subgroups (designated as "Arabic" and "Hebrew") will not be necessary.... That breakdown was requested in anticipation of a possibility that it might be needed in the future.^{6/}

These issues are not simply matters of private concern to colleges and universities. They are important to the nation as well, for higher education is not merely another fragment in the vast mosaic of national life. Thus, our task is not merely to strike a proper balance between public needs and the private interest of the academy, but to decide how government and universities can work in harmony so that higher education will make its greatest contribution to the welfare of society. And that is where the problem lies. Because higher education has become so central to our culture government is more and more inclined to intervene.... 7/

President Bok's protest, eloquent and compelling though it may be, came too late. The conditions that he protested were set between 1957 and 1972. It was at least possible during that period of transformation for the universities to have negotiated a favored relationship between themselves and the national government. It was not to be hoped that they could retain the near autonomy that British universities seemingly have managed to preserve into the age of government subvention. But it was possible to provide that universities be recognized as special institutions, that since they are not miniatures of the polity they cannot be expected to perform well if burdened by the regulations subjected to the polity at large.

In particular it was to be hoped that the research universities would establish their special needs as a proper claim upon the national government. Foremost of these was their need for institutional support: funds applied to the

universities, without specific tasks or requirements attached, in recognition of their existence as part of the national interest. Only with institutional support from Washington could the fifty or so campuses that perform nearly all of the basic research carried out in the United States -- and that train succeeding generations of scientists and scholars -- be able to maintain the academic excellence of a diverse student body in an egalitarian era disposed to mistake selectivity for elitism.

That this was not done involved a profound failure of leadership. No one spoke when there was still time. That some do so now only calls attention to the previous passivity. It is important for such protests to be registered, and on the margin they have some effect. But there should be no mistaking the extent to which universities are now wards of the State and that there is no undoing it.

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This is my principal theme. In the event that it does not arouse sufficient ire, let me offer a subtheme that is quite openly intended to provoke. I will contend that there were political scientists who noticed this happening and to a degree understood it. What is more, some warned against it. Had they been heeded things might have come out better.

It is precisely because of the skepticism my proposition is likely to evoke that I think it important to present it. Political scientists study the state. If we do not know all

there is to know about it, we know some things, and they are worth knowing. The cohort of university presidents -- physicists and classicists and assorted aesthetes -- who were running American universities during the period of which I speak could have learned from us. The lawyers, who now take over, such has been the damage, might do worse than consider this.

A declaration of interest is in order here. It happens that in 1959, then teaching at Syracuse University, I wrote what I believe to be the first critique of the National Defense Education Act of 1958. This legislation was the first of the three great enactments that tied the university to the state in America. I wrote at the time that this process had begun, and warned that the direction it was taking would lead to about the condition we are in today. It wasn't that hard to foresee. Thereafter, I was marginally involved in assembling the Higher Education Act of 1965, and saw that enterprise -- the second great enactment -- deepen the trend of government intervention in higher education. In 1970 I wrote the Presidential Message that led to the Education Amendments of 1972, the third decisive enactment of this transformation. I hoped at the time to be able to modify the direction of events. I failed. But I did try, and I did warn.

The transformation, which begins with the National Defense Education Act of 1958, was yet another response to the Soviet launching of the "Sputnik" satellite the previous year. In a paper presented to a meeting of the University Centers for Rational Alternatives in 1976, William J. McGill, then president of Columbia University, noted the similarities and

differences between the budget difficulties he was facing (which included finding \$1 million for federal paperwork) for the coming academic year, and those his predecessor had faced half a century earlier:

Nicholas Murray Butler's budget for Columbia University in 1928 had no government money in it at all, whereas nearly one-third of my budget in 1978 will be paid for in Washington.^{8/}

What had intervened, he said, was

...the federal government's decision to turn to the major research universities for a unique kind of public service. We were given stewardship over the nation's expanded commitment to basic research and advanced teaching. The threshold was passed in 1957 when the Soviets launched their Sputnik beeping to the world its message of technological superiority. After Sputnik our involvement with government initiatives in higher education, and our dependence on federal funds for expansion of our facilities and our mission, was such that no major American university would ever be the same again.^{9/}

This was an accurate statement, but it need not have been quite so positive-seeming. The public service involved -- bailing out an administration that found itself in embarrassing political circumstances -- was perhaps not so unique as might appear to those never previously put to such uses.

In the article I wrote in 1959 -- and which from this distance I will grant was perhaps more hortatory than analytic -- I set forth the principal characteristics of the momentous enactment we recall as the National Defense Education Act.

It will be recalled that the N.D.E.A. resolved the long-standing dispute over federal aid to higher education, a dispute conducted along traditional liberal-conservative lines. Following the launching of Sputnik, a conservative Eisenhower

administration proposed such a program, and a liberal Congress, with many variations of its own, enacted it. Higher education appeared to have won a victory, and had done so, but, I argued, there was a cost. Education in effect assumed the blame for the political failure of the Eisenhower administration to devote enough resources to beat the Russians into space. But there was nothing the least deficient in U.S. technology at the time. The country simply was not devoting its resources to this particular task. And so political deception was present from the beginning.

In outlining the provisions of the act, I noted three features. First, the principal benefits went to students rather than institutions. Second, that for all the talk of major research universities, institutional benefits were distributed to many schools, following the dictates of Congressional politics, rather than being concentrated on the large research centers. And both these patterns have remained permanent.

Third, the act instituted a loyalty oath and affidavit for all beneficiaries, and a particularly odious one at that. For the first time, belief, as against overt action, was made grounds for governmental sanction, withal the somewhat negative sanction of withholding benefits. Section 101(f) of the act stated:

No part of any funds appropriated or otherwise made available for expenditure under authority of this Act shall be used to make payments or loans to any individual unless such individual (1) has executed and filed with the Commissioner an affidavit that he does not believe in, and is not a member of and

does not support any organization that believes in or teaches, the overthrow of the United States Government by force or violence or by any illegal or unconstitutional methods, and (2) has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic..."10/

In the course of my inquiries I had learned that the loyalty oath was not at all the work of Senator Barry Goldwater as was generally alleged. It was, rather, the work of a staff member thinking -- wrongly -- that it would make a favorable impression on the Senator. At the time I made too little of the role of Congressional staff in these matters. But then that role was just beginning.

But the most significant aspect of the N.D.E.A. was that the universities themselves played no significant role in either its conception or enactment. It was an act of state done for reasons of state. I observed: .

Almost to a man the educators, high and low across the nation sat silent and passive while the vast machinery of the establishment set about manufacturing evidence that the schoolteachers were to blame for Sputnik. Indeed, the educators themselves began confessing their guilt -- and asking funds wherewith to mend their ways.

...A kinder explanation would be that many educators saw through the administration stratagem but took their beating in the expectation that before it was over, they would be kicked into the trough of federal aid. And this is precisely what happened.11/

This tentative conclusion has been reinforced by more recent analysts. The political scientist Lauriston R. King

wrote in his 1975 book The Washington Lobbyists for Higher Education:

The institutions played a negligible role in shaping policies of direct benefit to themselves or their student constituents. Instead they willingly accommodated national policy by providing men and resources to carry out the objectives of the government.^{12/}

Norman C. Thomas, professor of political science at the University of Cincinnati, observed in his 1975 work, Education in National Politics, that:

In the rationale for NDEA, national security was the end, education the means.^{13/}

The silence from the academy was again notable in the Higher Education Act of 1965, the next large enactment in this field. In 1965, I was a member of the subcabinet in the Johnson administration, and while my involvement in the Higher Education Act of that year was peripheral, I was depressed by the repetition of the pattern that tied the universities closer to the government. I had been a member of the task force established by President Kennedy that later drew up for President Johnson the program that came to be known as the war on poverty. I now watched the universities pressed into that conflict, much as they had been summoned to the space wars of the previous decade.

The centerpiece of the 1965 legislation was the first program of federal grant aid to needy undergraduate students: Educational Opportunity Grants. The grants were to go to persons "who for lack of financial means...would be unable to

obtain" the "benefit of higher education."^{14/} Helping them to go to college was one of the several means by which the federal government was then seeking to lift them out of poverty.

Other provisions of the Higher Education Act included federal insurance for student loans obtained from private lenders, categorical assistance for college libraries, aid for "developing" (in the main, black) institutions, creation of the National Teachers Corps, and a new program of federal assistance with equipment costs for colleges seeking to improve undergraduate instruction.

These were and are excellent programs. They are, however, fairly narrow ones, and they represent the polity's choice, as it were, rather than the university's choice. No money was made available for the universities to do with as they thought best: to experiment with new things; perhaps, more important, to preserve old ones. As Lawrence Gladieux and Thomas Wolanin observe in their 1976 book, Congress and the Colleges,

The tradition of categorical programs for specific federal purposes was continued.^{15/}

A practice of but seven years standing had already become a tradition!

The universities had little to do with the writing of this legislation. The White House staff put together the President's proposal and the Congressional leadership enacted it. It was done in that surge of legislative activity in 1965 directed

toward social equality. Universities were instruments of these social goals, much as were the elementary and secondary schools -- which in 1965 for the first time became beneficiaries of federal aid -- but again on terms dictated by the antipoverty agenda.

That this approach to federal higher education policy posed risks for higher education did not go altogether unnoticed by university administrators. In December, 1965, at a Conference on New Federal Education Programs sponsored by the American Council on Education, Keith Spalding, a social scientist who had been president of Franklin and Marshall College for two years (and who, fifteen years later, is still the distinguished president of that distinguished liberal arts institution) got it exactly right:

In more cases than not, the institution is required to tailor its program to the guidelines established by the national granting agency. With a slight adjustment here, a minor compromise there, the institution will get the grant. Then it may find itself committed to a program that makes not quite the demands it expected on its resources, or engages those resources in an unbalancing way. The federal dollar is tempting, and in the absence of other means to mount an important project, the compromises become easier and easier to make.... Most federal legislation is written in accordance with norms that cannot take institutional differences into account....Moreover, the whole concept of accountability contains requirements unfamiliar to private institutions....With government money becoming available for library acquisitions, scholarships, special programs, and operating purposes, some of the special privileges that go with private status may no longer be legitimately claimed....16/

But his was almost a lone voice. In the main, the leadership of higher education did not speak up, nor did it perceive the

extent to which the government could manipulate higher education.

Five years later, in 1970, it fell to me, as a member of the Cabinet, to draft a Presidential Message on Higher Education. This was the first Presidential message ever to be devoted exclusively to this subject: an event not without note in itself. In 1970, there was also intense politicization of university life, and so I undertook to do what perhaps could not be done: to propose, on the part of the State, that universities be enabled, or at least encouraged, to resist the intrusions of government.

This to be sure was a somewhat interstitial message. The principal theme of the President's message was that the federal government should guarantee every American youth access to higher education with what are now known as Basic Educational Opportunity Grants, or Pell Grants, named for the distinguished Senator from Rhode Island, Claiborne Pell, who continues his incomparable service as chairman of the Subcommittee on Education, Arts and Humanities. This proposal was a natural, even predictable development from the 1958 and 1965 legislation, in effect a proposal to universalize the principles embodied in the earlier enactments: federal aid to needy students, with the universities again instruments of federal purpose, in this case the general objective of equalizing opportunities. The progression, from a limited program of loans through a limited program of grants to a vast program of direct student assistance for all who want it is a familiar one in social policy.

With respect to institutions, however, I hoped for something different. It was clear that the major research universities were becoming heavily dependent on the federal government -- not least because half were and are private, meaning they had few resources of the state to summon. In 1959, I had observed of N.D.E.A. that:

...the priorities of education are being decided in congressional committees and Washington bureaus on the all too familiar basis of the exigencies of the moment.

...The danger is that we will go on pretending that federal control does not exist and that consequently control will be hidden, [and] will be exercised by people who are inadequate to the responsibility...17/

Following a 1968 recommendation of the Carnegie Commission on Higher Education, the President's 1970 message proposed establishment of a National Foundation for Higher Education to address this difficulty. The message to Congress was explicit enough:

The crisis in higher education at this time is more than simply one of finances. It has to do with the uses to which the resources of higher education are put, as well as the amount of those resources, and it is past time the Federal government acknowledged its own responsibility for bringing about, through the forms of support it has given and the conditions of that support, a serious distortion of the activities of our centers of academic excellence.

For three decades now the Federal government has been hiring universities to do work it wanted done. In far the greatest measure, this work has been in the national interest, and the nation is in the debt of those universities that have so brilliantly performed it. But the time has come for the Federal government to help academic communities to pursue excellence and reform in fields of their own choosing as well, and by means of their own choice.18/

The National Foundation (with a beginning budget of \$200 million a year) was to be a free-standing agency somewhat akin to Britain's University Grants Commission, with "a semi-autonomous board and director appointed by the President."

Its stated mission was:

To provide a source of funds for the support of excellence, new ideas and reform in higher education, which could be given out on the basis of the quality of the institutions and programs concerned.^{19/}

Two years of Congressional hearings and debate followed. In the end the Education Amendments of 1972 included almost all of the President's 1970 proposals -- with the single and conspicuous exception of the National Foundation for Higher Education. It was not adopted by Congress because it was rejected by the universities it was intended to help. The rejection was instantaneous, and on the edge vehement.

Here there is something further to be said on behalf of political science. There is a life cycle of political issues. This is a matter not much investigated as yet, but anyone who studies legislatures or elections will have sensed the pattern. Or several patterns; I make no explicit claim. The art of the politician is to be able to recognize an issue whose time has come, and one whose time has passed. In 1970, despite appearances, higher education was about to drop sharply on the political agenda of the nation. The President's education proposals were in the nature of a rounding out, a finishing up of a period of intense legislative activity. The United States had reached

the moon, the war on poverty was institutionalized. Moreover, the post World War II baby boom was through school, just about out of college. Enrollments thereafter would level off and even decline. After fifteen years at center stage, the management of higher education programs and legislation was clearly going to become just another routine function of the government.

The leaders of higher education evinced little sense of this. They extrapolated the rising interest shown in them and their universities since the late 1950s and assumed it would rise indefinitely. There was not the least sense that an opportunity to determine the relationship between academe and the government was being presented them that would not come again.

It should have been obvious. For my part I spent the remainder of 1970 (at the end of which I would return to teaching) trying to persuade the leadership that this was obvious. But this effort seemed only to arouse suspicion. Clearly there was a failure of advocacy on my part; but just as clearly this was not a subject with which academic leaders were equipped to deal. Government was, in truth, something new to them.

In October 1970, I spoke to the annual meeting of the American Council on Education in St. Louis. "What," I asked, referring to the proposal for the National Foundation, "impedes the passage of this historic legislation?" For at the time, as I saw it, the response to our proposal could only "be

described as indifference in the Congress and embarrassed silence or even suspicion in the world of higher education."

Several possible explanations for the reticence suggested themselves, but none more strongly than the actual experience I had had between March, when the President set forth his proposals, and October, when I spoke:

Quite serious efforts by the President and members of the Cabinet and White House staff to explain the proposal and to elicit either support or some counterproposal came to nothing. Time after time such discussion would begin on a fairly high -- and appropriate -- level of general principles and within moments degenerate into a competitive and barely dignified clamor over this or that little categorical program.

Had we thought categorical aid had distorted the relations of the higher education community to the federal government before the program was announced, in the aftermath we were utterly convinced. Corrupted would not be too strong a term. No one seemed able to think of the whole subject. Few, even, seemed able to think of the interests of a single whole institution. A major presidential initiative that, right or wrong, was at very least the product of some thought and some analysis was greeted by silence on the part of precisely those institutions that are presumably devoted to thought and analysis.^{20/}

Two years later, in her keynote address to the American Council on Education, Martha E. Peterson, the distinguished President of Barnard College, recalling my hectoring, acknowledged that:

...we feared we might be enticed to take sides in a partisan political battle.^{21/}

But such rectitude had its cost. In a 1972 article, "The Election, Politics and Higher Education," Professor John C.

Honey of Syracuse University wrote that the Education Amendments of 1972 were of the nature of definitive, closing-out legislation. He added:

The failure of the Washington-based spokesmen for higher education to contribute significantly to the shaping of those amendments verges on the scandalous.^{22/}

The failure can be ascribed to all manner of reasons, not least to the intense distaste of the leaders of the elite institutions at the time for President Nixon, but then higher education had not much influenced any of the previous enactments; why should it have done differently in 1972?

Nor, it should be noted, did members of Congress who actually shaped the legislation receive the help from the universities that they thought they needed. Policy analysis seemingly gave way before what was perceived then on Capitol Hill as a sort of greed-by-consensus approach. In July 1975, the Higher Education Daily quoted Congressman John Brademas:

We turned to the citadels of reason. We said "Tell us what you need," and they answered "We need \$150 per student because that's what we've been able to agree on."^{23/}

As the Seventies moved on, the perception began slowly to form in university circles that perhaps things had not gone well. Complaints about relations with the federal government began to be more frequently heard, and they were not confined to the routine laments that research grants were being cut back. (The more a sector is dependent on federal support the more routinized are its claims that such support is being reduced, or is being threatened with reduction.)

In 1974, the editors of Daedalus, the journal of the American Academy of Arts and Sciences, made the unusual decision to devote a double volume of the magazine to "American Higher Education: Toward an Uncertain Future." Asked to contribute an article on "The Politics of Higher Education," I began with the theme of passivity, or, rather, the absence of organized action on behalf of reasonably coherent group interests:

The federal government is much involved with higher education, but higher education is but little involved with the federal government.

That the former should be so is understandable. Higher Education is a necessary aspect of national life, and the national government has always been involved. Washington raised the subject in his Inaugural Address. It is the imbalance of the relation that is anomalous. Why has there been so little initiative and effective organization on the part of higher education in pressing its interests with the national government? A review of the experience from the 1950s on suggests that government has behaved about as governments will do, pursuing recognizable interests, including that of acting and appearing to act in terms of fairly generously defined public interests. Higher education might have been expected to respond by becoming a moderately importunate and reasonably coherent claimant on national resources. During this same period -- and given no better opportunity -- elementary and secondary schools, and school-teachers, fashioned themselves into an aggressive national lobby. Higher education did not. In a manner recorded more in literature than in politics, it responded in a passive mode, accepting support it had not the power to command; agreeing without overmuch fuss to the small conditions and obligations that seemed ever to accompany such support. Dignity was maintained; dependency deepened. The series of historical accidents, which over the past two decades have given a political priority to the needs of higher education quite independent of any assertion of those needs by higher education, evidently induced an assumption that people, or rather The People, would always be kind. When, as of late, things have not quite worked as some would wish,

there has been a tendency to attribute this to an aberrant condition in government which will soon enough be righted. This might be termed "Waiting for 76."^{24/}

Well, of course, 1976 came and nothing changed. As best I can judge, nothing now will change for a long time. The objectives of the state had been achieved: the bargaining power of the universities had accordingly quite dissipated. If there were university presidents who discovered this to their consternation and annoyance about two years into the Carter administration, one can only recommend that they familiarize themselves with the work of James Q. Wilson or other students of government now at large. The subject of education has been disposed of. Environmentalism displaced it in the early Seventies, and even that issue seems now to be waning. Energy issues are coming to the fore.

Higher education is scarcely addressed in the party platforms of 1980. The Republicans undertake to:

...hold the federal bureaucracy accountable for its harassment of colleges and universities and will clear away the tangle of regulation that has unconscionably driven up their expenses and tuitions.... [and to] respect the rights of state and local authorities in the management of their school systems.^{25/}

The Democrats propose to:*

...reaffirm the federal responsibility for stable support of knowledge production and development of highly trained personnel in all areas of fundamental scientific and intellectual knowledge to meet social needs.^{26/}

* (A painful duty requires that I acknowledge having been a member this year, as in 1976, of the drafting committee for the Democratic Platform.)

The Republican Platform may be dismissed. No one is able to "hold" the federal bureaucracy "accountable" for anything. Once you put a bureaucracy in place it will behave like a bureaucracy. If you wish to describe the behavior as "harrassment," by all means do so. The bureaucracy doesn't mind. But neither should one suppose that the bureaucracy will in any significant way be made to behave differently.

It is to the Democrats one must turn for truth. The Party Platform reaffirms the pledge "for stable support of knowledge production." This is a binding commitment; not perhaps as important as a commitment to stabilize hog belly prices, or to increase the production of synthetic fuels. But we have kept the farm program going for on to fifty years now and we will keep the knowledge production program going for at least as long. Democrats are unexcelled at program preservation. Republicans cannot make that claim.

In a word, support for higher education has become a routine function of the national government. There is an agriculture program; a housing program; a higher-education program. Each goes on and each retains roughly its share of the budget, whilst growing steadily more detailed, a process which in the welfare program has been given the name "tireless tinkering."

The higher education reauthorization bill of 1980 extends all the existing programs, with a quite large number of small changes, but there are no significant changes in policy, or in fundamental definition of the federal role. Grants to needy

students are increased. Loan programs are rearranged. Parents, as well as students, will henceforth be able to borrow. The 3 percent interest rate of the 1958 loan program is increased to 4 percent. Where there had once been a single program to aid "developing institutions," there will now be three. Additional funds will be made available to train teachers of the handicapped. Myriad other changes are made. But nothing of consequence will be different.

Incrementalism in policy terms is associated with great legislative complexity, followed by even greater administrative complexity. The pioneering National Defense Education Act was 25 pages long. The routine Higher Education Amendments Act of 1980 was 148 pages long.

I noted in Daedalus in 1975 that in contrast with higher education the elementary and secondary school teachers had "fashioned themselves into an aggressive national lobby."^{27/} In 1976 the National Education Association endorsed the Democratic candidate for President, in return for a pledge to establish a Department of Education. This was done in 1979. (The American Federation of Teachers opposed the creation of a department but as much, one felt, from the demands of inter-union rivalry as from any objection in principle.) What role had higher education in this momentous decision? As near as possible to none. Many of the principal organizations representing colleges and universities in Washington professed

neutrality. Others were opposed to the creation of such a department because they felt it would be dominated by elementary and secondary interests. But any such latent opposition was effectively squelched by the Carter administration, which was nothing if not direct in making the interests of the state clear to leaders of the universities, and making clear also that the interests of the state came first.

Thus, on February 1, 1979, the executive committee of the Association of American Universities was summoned to the White House. The presidents of seven major universities, including Purdue, Iowa, Stanford, and Indiana, were greeted by six senior administration officials: Vice-President Mondale, presidential science advisor Frank Press, presidential domestic policy advisor Stuart Eizenstat, education aide Elizabeth Abramowitz, Commissioner of Education Ernest Boyer, and Assistant Secretary of HEW Mary Berry. They were told in the most explicit terms that the President was committed to the department and they were not to oppose it if they did not want their own programs diminished. They did not oppose.

I give the specifics of this meeting only to suggest the reality of federal influence, and the normal nature of its exercise. In fairness it should be noted that while the White House successfully put down the opposition of the various Washington associations, some individual university presidents did speak out against the proposed department. What is remarkable is that

one must think them courageous for having done so.^{28/} But, of course, to no avail.

This was not the first such episode of intimidation by the White House. In 1971 President Nixon, angered by the opposition, as he saw it, of the President of the Massachusetts Institute of Technology to his defense programs issued a directive "to cut back on MIT's subsidy...." Nothing came of this, but as I observed in Daedalus,

The Nixon Administration's action is nonetheless shocking and seemingly unrepented to this day.... [It] will serve to record yet again the fundamentally political nature of the federal relation to higher education and the difficulty of response.^{29/}

The relationship continues to be fundamentally political. Hence, "Waiting for '76" turned out to be very like Waiting for Godot. Not much happens and nothing changes. This seems to have come as a surprise to some. The shift of parties in the White House appears to have brought more, not less, regulatory intrusion in university affairs. But all the Carter Administration did was to establish a new department which will make regulation yet more extensive. This was not the intent of the planners of the new department. It will be the result. That at least is what a political scientist will forecast.

What of the future?

I have offered the thesis that the fundamental transition in the relations of the University to the State took place between 1957 and 1972. The result has been a great increase in Federal aid to universities but with accompanying increases in

Federal influence. Federal influence has gone from encouraging the development of curricula, which was the main theme of N.D.E.A., to much more pervasive setting of standards as to student enrollment and faculty selection. There is a rule of sorts that organizations in conflict become like one another. In just this manner universities, once decentralized and collegial, more and more come to adopt the hierarchical, bureaucratic form of the federal government with which they deal. The structure of university governance is increasingly shaped to match the federal opposite: a proliferation of vice-presidents, assistant deans, and deputy chancellors to deal with deputy directors, assistant secretaries, and deputy assistant secretaries. (In the new Department of Education one finds officials with the title Assistant Deputy Assistant Secretary.) Subtly, the leadership of universities seems to be turning toward men and women whose skills are in the kinds of adversary proceedings the federal government brings about.

In a letter to The New York Times following the sentencing of Professor Dinnan, Donald C. Freeman, professor of English at Temple University, warned that he had been caught up in similar lawsuits and had not been provided counsel by the universities involved. He wrote:

The lesson is clear. Professors who take part in the personnel process of their own or other universities are on their own in the courts, notwithstanding the long traditions of confidential external referees and peer review and evaluation of one's colleagues in academic preferment.^{30/}

One may doubt this. Universities will begin providing legal counsel for professors taken to court in these matters. But increasingly such matters will be regarded as part of "the personnel process" -- and professors will be regarded as employees. For that is the way the federal government -- or any normal hierarchical organization -- would approach the matter. And in the transformed relationship, the norms of the State will prevail over the norms of the University. But universities will have to adapt. And if in doing so they lose much that is distinctive in their previous form and function: well, that is progress.

The federal government has acquired the power to shut down any university it chooses. The more important the university, the greater the power. And the greater the concentration of federal power in one place, the greater the danger. It was that danger that moved David Riesman to oppose the Department of Education, on the grounds that:

... education is... vulnerable to attack because something done in one of the three thousand accredited postsecondary institutions by somebody may offend somebody or get in the papers. It therefore needs to have many diverse sources of support, combined with a certain precious obscurity.... Education is best served by decentralization, not only in this huge and diverse country but also within the federal government and its many agencies.^{31/}

There was a time when the universities could have insisted on more equal terms. They did not. They did not and now cannot. Sometimes, outside interests capture a federal bureaucracy.

Not infrequently, however, the opposite occurs. May it simply be noted that 37.8 percent of the budget of the American Council on Education in 1979 came from federal funds.

It is in the nature of universities to require patrons, of patrons to require certain forms of obeisance in return. A friend, now the master of a Cambridge college, although a man of assertive agnostic inclination, nonetheless faithfully once each year prays for the soul of Lady Margaret Beaufort, a sixteenth-century benefactress. Delayed gratification, however, is not natural to twentieth-century politics, and universities must now expect a long, for practical purposes permanent, regime of pressure from the federal government to pursue this or that national purpose, purposes often at variance with the interests or inclinations of the university.

There is nothing to be done about this, save to be aware of it. I do genuinely believe that better terms could have been got during the period of transition. They were not.

This is partly a failure of leadership. Few voices were raised on behalf of the independence of universities. Indeed, most of the political energies that led to greater university regulation began in the universities themselves--in that "age of rubbish" to use Richard Hofstadter's term. The fact is that the universities politicized themselves before they were subjected to any considerable external political pressure. That, at all events, is the conclusion of one participant-observer, as the sociologists say. Surely the views presented here

cannot be complete: possibly they are quite wrong. The joy of the university and the guarantor of its continued vitality is that we can look forward to intensive studies in which we will undertake to learn from our own experience. Having offered this first set of propositions I can only tell you that I have no illusions as to the degree of distress with which I shall be required to read the dissenting views of those young scholars just now appearing on the scene with, as Beerbohm put it, "months of activity before them."^{32/}

(c) Daniel Patrick Moynihan

NOTES

1/ Executive Order 11246, September 16, 1965, Part II, Subpart B(5).

2/ U.S. Department of Labor "In the Matter of U.S. Department of Labor Office of Federal Contract Compliance Programs, Compliant, and University of California, Berkeley, Respondent: Decision and Administrative Order of the Secretary of Labor." Case No. F8-OFCCP-7 (Washington, D.C.: unpublished report, n.d.), p. 77.

3/ Circular A-21, "Cost Principles for Educational Institutions" quoted in John Walsh, "Universities Face New Accounting Rules," Science, October 3, 1980 p. 34.

4/ John Walsh, "Universities Face New Accounting Rules," Science, October 3, 1980 p. 34.

5/ "U.S. Regulations on Research," The New York Times, October 19, 1980, President Giamatti's comments were added after this lecture was delivered.

6/ Memorandum to all equal employment opportunity coordinators, by Daniel R. Cavan, Coordinator, Judiciary Equal Employment Program, Administrative Office of the United States Courts, Washington, D.C. 20544. Sept. 26, 1980.

7/ Derek Bok, "The Federal Government and the University," The Public Interest, Winter 1980, p. 81-82.

8/ William J. McGill, "Government Regulation and Academic Freedom" in The University and the State, Sidney Hook et.al., eds. (New York: Prometheus Books, 1978), p. 140.

9/ McGill, p. 141.

10/ Public Law 85-864, Title X, Section 1001(f).

11/ Daniel P. Moynihan, "A Second Look At the School Panic." The Reporter, June 11, 1959, p. 15-16.

12/ Lauriston R. King, The Washington Lobbyists for Higher Education (Lexington, Massachusetts: Lexington Books, 1975), p. 1.

13/ Norman C. Thomas, Education in National Politics (New York: David McKay Co., Inc., 1975), p. 24.

14/ Public Law 89-329, Title IV, Part A, Section 401(a).

15/ Lawrence Gladieux and Thomas Wolanin, Congress and the Colleges (Lexington, Massachusetts: Lexington Books, 1976), p. 12.

16/ Keith Spalding, "The Relevance of Federal Programs to the Purpose of the Institution," Educational Record, Spring 1966, p. 144-146.

17/ Moynihan, "A Second Look," p. 19.

18/ Text of Richard Nixon's March 19, 1970 Message to Congress on Higher Education, 1970 Congressional Quarterly Almanac (Washington D. C.: Congressional Quarterly, 1971), p. 39-A.

19/ Nixon Message, p. 39-A.

20/ Daniel P. Moynihan, "On Universal Higher Education," in Education for Everybody?, W. Todd Furniss, ed. (Washington, D.C.: American Council on Education, 1971), p. 252-253.

21/ Martha E. Peterson, "Women, Autonomy and Accountability in Higher Education" in Women in Higher Education, W. Todd Furniss, ed. (Washington, D.C.: American Council on Education, 1974), p. 6.

22/ John C. Honey, "The Election, Politics, and Higher Education," Science, December 22, 1972, p. 1243.

23/ John Brademas quoted in July 11, 1975 Higher Education Daily, p. 2, quoted in Gladieux and Wolanin, p. 242.

24/ Daniel P. Moynihan, "The Politics of Higher Education," Daedalus, Winter 1975, p. 128.

25/ 1980 Republican Platform, p. 15.

26/ 1980 Democratic Platform, p. 38.

27/ Moynihan, "The Politics," p. 128.

28/ See for example statements submitted by Daniel P. Moynihan in the Congressional Record, April 16, 1979. p. S4765.

29/ Moynihan, "The Politics," p. 142.

30/ Donald C. Freeman, "Letter to the Editor," The New York Times, September 23, 1980.

31/ David Riesman, see statement submitted by Daniel P. Moynihan in Congressional Record, April 16, 1979, p. S4764.

32/ Max Beerbohn, "Diminuendo" in The Works of Max Beerbohm (New York: Charles Scribner's Sons, 1896), p. 164